

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Allen J.,

File No. 18-cv-0810 (ECT/SER)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Andrew Saul, Commissioner of
Social Security,¹

Defendant.

Petitioner Allen J. brought this action seeking Social Security disability benefits. Compl. [ECF No. 1]. The Parties filed cross-motions for summary judgment. ECF Nos. 17, 20. The case is before the Court on a Report and Recommendation (“R&R”) [ECF No. 23] issued by Magistrate Judge Steven E. Rau. Magistrate Judge Rau recommends denying Allen J.’s motion and granting the motion brought by the Commissioner of Social Security, Andrew Saul. R&R at 13. Allen J. filed objections to the Report and Recommendation [ECF No. 25], to which the Commissioner has responded [ECF No. 26]. Because Allen J. has objected, the Court is required to review *de novo* “those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Local Rule 72.2(b)(3). Based on that review, the Court agrees with the R&R’s analysis and conclusions regarding the arguments

¹ Commissioner of Social Security Andrew Saul is substituted for former Acting Commissioner of Social Security Nancy Berryhill because a “[public] officer’s successor is automatically substituted as a party” and “[l]ater proceedings should be in the substituted party’s name.” Fed. R. Civ. P. 25(d).

squarely presented by the Parties in their summary-judgment briefs; accordingly, it will accept Magistrate Judge Rau's R&R. To the extent Allen J.'s objections raised new arguments not already raised before Magistrate Judge Rau, those arguments are waived, and they will not be considered here. *See Ridenour v. Boehringer Ingelheim Pharms., Inc.*, 679 F.3d 1062, 1067 (8th Cir. 2012) (concluding that "[t]he district court properly refused to consider [appellant's] argument . . . because th[e] argument was not presented first to the magistrate judge").

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS ORDERED THAT:**

1. Plaintiff's Objections to the Report and Recommendation [ECF No. 25] are **OVERRULED;**

2. The Report and Recommendation [ECF No. 23] is **ACCEPTED** in full;

3. Plaintiff's motion for summary judgment [ECF No. 17] is **DENIED;**

4. Defendant's motion for summary judgment [ECF No. 20] is **GRANTED;**

and

5. This matter is **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 16, 2019

s/ Eric C. Tostrud

Eric C. Tostrud
United States District Court